

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

C.C.P. NO. 281/93

in

D.A. NO. 2890/91

New Delhi this the 10th day of January, 1994

CORAM :

THE HON'BLE MR. JUSTICE V. S. MALIMATH, CHAIRMAN
THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

1. Smt. Sushma Kumar Sharma,
Resident of Rly. Quarter
No. 126-C, Loco Shed (MG)
Delhi Sarai Rohilla.
2. Smt. Sarla Kumar Sharma,
Resident of Rly. Quarter
No. 126-C, Loco Shed,
Delhi Sarai Rohilla,
Delhi - 110006.

... Petitioners

By Advocate Shri R. K. Relan

Versus

1. Shri S. N. Mathur,
General Manager,
Northern Railway,
Baroda House, New Delhi.
2. Shri J. S. Batla,
Divisional Railway Manager,
Northern Railway, Bikaner,
Rajasthan.
3. Shri Vinod Kumar Sangal,
Estate Officer,
J.R.M.'s Office,
Northern Railway, Bikaner,
Rajasthan.
4. Shri Nathu Ram, Loco Foreman,
Loco Shed (MG), Northern Railway,
Delhi Sarai Rohilla,
Delhi - 110006.

... Respondents

By Advocate Shri R. L. Dhawan

O R D E R (ORAL)

Hon'ble Mr. Justice V. S. Malimath —

The complaint in this case is that the third respondent, the Estate Officer, is primarily responsible for his contumacious conduct in

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disobeying or acting in violation of the interim order passed by the Tribunal in O.A.2820/91 on 6.12.1991, which was directed to be continued until further orders by order dated 20.1.1992. The interim order says that the status quo as on the date of the order as regards the applicants occupying the Railway quarters be maintained. Admittedly, the applicant was occupying the Railway quarters allotted to her husband who died some time in the year 1987. In the original application it appears that the claim is made for compassionate appointment as also for certain monetary benefits to which she claims she is entitled to as the widow of her deceased husband. Respondent No.3 in the contempt of court petition is the Estate Officer who was respondent No.4 in the O.A. He must, therefore, be regarded as aware of the interim order made and continued after service of notice on the respondents in the O.A. Long after the interim order was made and continued, the Estate Officer made an order on 21.12.1992 by which he called upon the applicant to vacate the Railway quarters occupied by her within 15 days failing which she would be evicted by use of such force as may be necessary. Respondent No.3 has stated that he has exercised his power under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 he having been satisfied that the occupation of the Railway quarters by the applicant was unauthorised. The applicant's case is that respondent No.3 has made such an order being a party to the O.A. and the interim order granted by the Tribunal.

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An attempt was made to enforce his order by taking help of the police whereupon it is alleged that the petitioner moved the higher authorities in the police department bringing to their notice the interim order granted by the Tribunal which resulted in protecting from eviction of the petitioner which was attempted by the third respondent. It is on that ground that the present contempt of court petition was presented before the Tribunal for action under the Contempt of Courts Act on 8.6.1993.

2. Notice was issued in this case to all the respondents. An affidavit in reply has been filed on behalf of all the respondents by respondent No.2. No reply affidavit as such has been filed by respondent No.3 who is the principal contemner in this case.

3. We should advert to a subsequent event which has taken place in the U.A., namely, the vacation of the interim order on 27.8.1993. The contempt of court petition has been filed only after the interim order was vacated. This would not have been the conduct of a bona fide applicant who is interested in taking action under the Contempt of Courts Act for the alleged violation of the interim order of the Tribunal. We are inclined, therefore, to construe the conduct of the applicant in invoking the provisions of the Contempt of Courts Act as a counter-blast in the context of the vacation of the interim order by the Tribunal. It is also interesting to note that the applicant has not vacated the premises so far. This conduct of the petitioner

is by itself sufficient to justify our not taking action under the Contempt of Courts Act at the instance of the petitioner. The petitioner who is invoking the jurisdiction under the Contempt of Courts Act ought herself to have shown respect to the orders of the Tribunal. She has not done so as she has not vacated the premises in spite of the fact that the interim order of stay has been vacated, in the light of the order by the Estate Officer under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

4. We are conscious of the fact that apart from the conduct of the petitioner, the Tribunal ought to be sensitive to the conduct of the parties acting in contumacious violation of the orders of the Tribunal. As this is a contempt action, cause should have been shown by an appropriate affidavit filed by the Estate Officer who is primarily accused of contempt in this case. It is he who passed the order for eviction calling upon the petitioner to vacate the premises within 15 days failing which she was threatened of forcible eviction. This conduct of the respondent No.3 prima facie amounts to contumacious violation of the interim order of the Tribunal. It does not cease to be one merely because the interim order was vacated later. It does not cease to be one merely because there was no order made by the Tribunal staying the proceedings initiated under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. The facts make

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it quite clear that the Tribunal made an order to protect the petitioner's possession. The action taken by respondent No.3 is clearly in violation of the said order inasmuch as he in exercise of his statutory powers passed an order calling upon the petitioner to vacate the premises within 15 days failing which she was threatened of eviction forcibly. In fact, such an attempt was made though it became abortive for the reasons already stated above.

5.8 The reply filed by respondent No.2 cannot be taken into account for the benefit of respondent No.3. Even if the facts pleaded therein are taken into account they do not afford any justification for the contumacious violation of the interim order by the respondent No.3. We have already noticed that the petitioner herself has not come with clean hands and she is herself guilty of improper conduct in not vacating the premises after the interim order was vacated. Having regard to the totality of the circumstances, we are inclined to dispose of this contempt of court action by censuring the conduct of respondent No.3. That, in our opinion, is sufficient action under the Contempt of Courts Act. We make it clear that the respondents would be well within their rights in enforcing the order of eviction against the petitioner passed under the Public Premises (Eviction of Unauthorised Occupants) Act and to evict the petitioner from the Railway quarters.



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6. With these observations and the orders as
aforesaid made, this contempt of court petition
stands disposed of.


(S. R. Adige)
Member (A)



(V. S. Malimath)
Chairman

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